

Iura novit curia in international arbitration

Abstract

The thesis deals with the application of the *iura novit curia* principle in international arbitration. At the outset, it explains the function of the principle in the civil law tradition of court procedure and the potential issues arising out of its application in arbitration, in particular with regards to the limits of arbitral power and due process. Since the rules on conduct of arbitral proceedings provide no specific guidance in this respect, the ultimate limits of the use of the principle in arbitration are set by the national courts in proceedings on annulment and recognition of arbitral awards. The thesis attempts to delineate these limits on the case law of a few chosen countries and observe the potential similarities with their civil procedure.

Despite the differences in the legal traditions in the respective countries, the analysis of the case law finds a number of common features in the approaches to the application of the *iura novit curia* principle in international arbitration across the chosen countries. When assessing the powers of the arbitrator to apply the law as he deems appropriate, the courts seem to share similar concerns about the observation of the parties' right to be heard. Despite its somewhat firmer standing in investment arbitration, the *iura novit curia* principle appears to empower the arbitrator to perform enquiries on the applicable law on his own motion, whereas the due process requirements set limits to the exercise of this power.